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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,920	10/27/2000	Daryl S Meredith	0275A0168DVB	8371

7590 11/14/2003

Harness Dickey & Pierce PLC  
P O Box 828  
Bloomfield Hills, MI 48303

EXAMINER
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PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 11/14/2003

23

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/698,920

Applicant(s)

MEREDITH ET AL.

Examiner

Kenneth E Peterson

Art Unit

3724

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 37-58.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: see attached.

KENNETH E. PETERSON  
PRIMARY EXAMINER

Art Unit: 3724

\*2a – Newly amended claim 47 is a new issue because intervening claim 46 was omitted. Omitting claim 46 would have solved the problem under 35 USC 112, but it also raises new issues because the claims now recite less structure.

\*5c – Applicant requests that the finality of the rejection mailed 30 July 03 be withdrawn because it was *“not necessitated by Applicant’s amendment”*. However, it was Applicant’s amendment of 13 August 01 that necessitated this new final rejection (and also the previous non-optimal final rejection). If Applicant had not made the amendment of 13 August 01, then Examiner never would have shifted from his original rejection, mailed 09 May 01 and there would be no need for the latest final rejection.

Applicant has proven common ownership with the Stumpf et al. ‘309 patent thus rendering it unavailable as a reference under 35 USC 103c. However, Stumpf et al. ‘309 is part of a family of patents (5,957,022, 5,943,931, 5,755,148) having identical disclosures that *are* available as references under 35 USC 103c, thus Applicant’s claims are still considered to be obvious in view of Stumpf.

\*10 – Applicant’s terminal disclaimer was successful (but moot, see above)

  
KENNETH E. PETERSON  
PRIMARY EXAMINER